IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA.

RFA No. 208 of 2000

Date of Decision : 19.6.2007

Chaman Lal & Others …Appellants.

Versus:

Land Acquisition Collector, Anni. …Respondent.

***Coram*:**

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1] No

For the appellants: None

For the respondent. Mr. J. K. Verma, Dy. Advocate General.

Sanjay Karol, J (Oral).

Appellants have assailed the award dated 5th of April,2000 passed by the District Judge, Kinnaur Civil Division at Rampur Bushahr, H. P. in Land Ref. Petition No. 13 of 1996 titled as Chaman Lal & Ors. Vs. LAC, Anni.

Section 4, Notification dated 20th October, 1989 was issued by the respondent under the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as ' the Act'). In terms thereof, appellants' land comprised in Khasra No. 1481 / 415, measuring one bigha, situate in Mauza Dhaul (Arsoo),

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

Tehsil Nirmand, Distt. Kullu, H.P. was acquired for the purposes of construction of School ground for Govt. Senior Secondary School, Arsoo. In terms of the award of the Land Acquisition Collector, appellants were awarded compensation @Rs.4,120/- per bigha.

Aggrieved by the said award, appellants preferred a Reference under Section 18 of the Act, seeking enhancement of the compensation of the awarded amount. The same was registered and which is the subject matter of the controversy in the present appeal. Based on the pleadings, the Court below framed the following issues:-

> "(1) Whether the compensation awarded by the Collector was inadequate, if so, what was the market rate of the land acquired at the time of acquisition of the land? OPP
> (2) Whether the petition is within time? OPP."

In support of their claim, appellant No.1 Shri Chaman Lal examined himself as also examined four witnesses and got exhibited the sale deed Ex.PW-1/A, whereby the land measuring 1 biswa 12 biswancies in the same village was sold in favour of one Kamla Devi for a sum of Rs.30,000/-. Respondent produced two witnesses and relied upon Ex.RW-1/A and RW-2/A.

After relying upon the matter on record, the Court below came to the conclusion that the awarded compensation of the market value of the land of the appellants under acquisition was to be enhanced from a sum of Rs.4120/- to Rs.20,000/- per

bigha in addition to other statutory benefits which they were entitled to in accordance with law.

It is not clear as to whether the State also has filed any appeal against the impugned award. Be that as it may be, since there is no challenge in this appeal to the findings with regard to issue No.2, I am not going into the question of limitation.

With regard to first issue i.e. enhancement of compensation of the awarded amount, the Court below has heavily relied upon the statements of the witnesses.

I have gone through the record. The appellant has heavily relied upon the sale deed Ex.PW-1/A dated 20th April, 1987, whereby the land measuring 1 biswa 12 biswancies was sold to PW-1. Having seen the record and the statements of the parties, it is clear that the land under acquisition sold in terms of Ex.PW-1/A is certainly not comparable in location, size, shape, tenure and user. The land covered by the sale deed abutted the Highway in the main market near the Bus Stand whereas the land under acquisition is land locked, having no approach except through the compound of the beneficiary school. The land sought to be acquired is for the extension of the ground of the Senior Secondary School, Arsoo. Therefore, the market value of the land and locked piece of area cannot be equated with the market value of the land having direct approach to the Highway situated at Bus Stand. Further, the sale price of small chunk of

land cannot be considered to determine the market value of large chunk of land in question.

The Court below, however, enhanced the amount of compensation from Rs.4,120/- to Rs.20,000/- per bigha. This was done taking into account the oral evidence of the parties and also applying the minus factor and reasonable deduction on the sale of land in terms of Ex.PW-1/A. In my view, the Court below has been considerate enough in evaluating the attending circumstances, evidence and material on record to enhance the compensation. Any further increase of compensation, in my view, is totally unjustifiable and uncalled for.

For all the aforesaid reasons, I see no infirmity with the well reasoned award based on cogent material and evidence on record. The present appeal is dismissed with no order as to costs.

(Sanjay Karol),
Judge.

June 19, 2007.
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